

Rosado, Elizabeth

From: Morris, James
Sent: Friday, February 21, 2014 3:06 PM
To: Palmer, Todd E (24432)
Cc: Kane, Eleanor
Subject: Re: Madison-Kipp Corporation, Madison, WI -- CAA Section 114 Request

Hi Todd,

Thank you for relaying to me some of your client's concerns regarding the most recent CAA Section 114 request that was issued to Madison-Kipp Corporation (MKC) on February 10, 2014, requesting MKC to perform emission testing in connection with the furnaces at both its Fair Oaks Plant and Atwood Plant, in Madison, Wisconsin. In view of our telephone conversation on February 18th, and our upcoming teleconference—requested by MKC—scheduled for February 27th, I thought it would be helpful to provide a more detailed rationale for EPA's request.

As you know, among the alleged violations delineated in EPA's Notice of Violation issued to MKC on September 4, 2012, were failures to use correct emission factors for chlorine and hydrochloric acid emissions, in violation of Sections I.A.3.(b) and I.A.4.(b) of MKC's Operation Permit No. 113125320-F10 ("permit"). Section I.A.3.(b) of the permit clearly states that the current emission factor for chlorine is 0.034 pound Cl/pound of Cl injected, based on testing done by the facility in **October 2003**; it continues, "[i]f a **future** stack test results in a different emission factor, the new emission factor shall be used in place of 0.034." [Emphasis added.]

Likewise, Section I.A.4.(b) of the permit states that the current emission factor for hydrogen chloride is 0.205 lb HCl/lb of chlorine injected, based on testing done by the facility in **October 2003**. Again, "[i]f a **future** stack test results in a different emission factor, the new emission factor shall be used in place of 0.205." [Emphasis added.]

Despite these permit conditions, MKC has apparently historically calculated emissions using emission factors for chlorine and hydrogen chloride derived, not from a performance test post-dating its October 2003 tests, but, rather, from a **May 2001** test event that the facility deems more "representative." After EPA's issuance of the NOV in 2012, MKC, on January 28, 2013, proposed to the Wisconsin Department of Natural Resources (WDNR) in a permit renewal application that the emission factors derived from the May 2001 testing (0.00579 for chlorine and 0.179 for hydrogen chloride) be substituted for the current emission factors in permit sections I.A.3.(b) and I.A.4.(b), that the phrase "a future stack test" be replaced by "an alternate stack test," and that the phrase "different emission factor" be replaced by "more appropriate emission factor."

First, EPA's position with respect to MKC's ignoring more recent testing and "going back in time" (conceivably, for a limitless, indefinite time period) in order to adopt emission factors that are more advantageous to MKC (or any facility) is inappropriate. If a facility believes that its currently prescribed emission factors are not appropriate based on its current operating conditions, then the facility is free to move forward by conducting additional testing. By using non-current emission factors derived from its May 2001 testing, MKC has historically and consistently under-represented emissions in its certified annual emission reports.

Second, and equally important, even if MKC had not tested in October 2003 (and, subsequently, ignored the results), a period of thirteen years between performance tests (2001-2014) is not acceptable. While the use of prior performance tests to demonstrate compliance with various emission standards is a reasonable and necessary accommodation for those sources that must perform numerous emission tests to satisfy a host of state or federal requirements, EPA has determined that it is necessary to limit the age of the data used to demonstrate compliance. In some sections of the regulatory scheme adopted pursuant to the requirements of the Clean Air Act, an age cut-off (typically, five years) is explicit within the requirement. In other sections, there exists flexibility within the regulations to make site-specific determinations as to the appropriateness of the use of prior data; typically, as in this case, EPA is concerned that long-

term stress to the critical components of the source and/or its control devices will adversely affect emissions over the years.

Because of the advanced age of the data in this case, EPA will need—and is requiring MKC to provide—a more current picture of its operations in order to begin to resolve the alleged violations delineated in the 2012 NOV.

As an additional matter, EPA has noted your objection, in Appendix B, Request 1.a. of the Section 114 request, to test for PM_{2.5}, as there is currently no PM_{2.5} limit in MKC's permit or in the Wisconsin State Implementation Plan (SIP). While EPA, via this email, is withdrawing its requirement that MKC test for PM_{2.5} at this time, EPA notes that Wisconsin is scheduled to submit certain requirements for its PM_{2.5} SIP in June of this year, and that a PM_{2.5} limit might be promulgated as part of Wisconsin's approved SIP as early as mid-2015. Given these circumstances, MKC might conclude that testing for PM_{2.5} as part of the testing required by the instant 114 request will assist in the facility's early identification and addressing of potential PM_{2.5}-related compliance issues. Therefore, while EPA is not requiring MKC to test for PM_{2.5} at this time, the Region encourages MKC to do so, as part of its imminent testing event.

I hope this email has been helpful in communicating EPA's position regarding the necessity of the testing required by the Section 114 request issued on February 10, 2014. If you have any questions in the interim between now and our scheduled call on February 27th, please feel free to contact me. If there are strictly technical issues that Mark Meunier or Marty Stromberger (or other MKC representatives) would like to discuss with Eleanor Kane, they should also feel free to call her directly.

Best regards,

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